

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

Boveda Asset Management, Inc.,)	C/A No. 3:16-2651-CMC-PJG
)	
Plaintiff,)	
)	
v.)	
)	REPORT AND RECOMMENDATION
The PNC Financial Services Group, Inc., <i>doing</i>)	
<i>business as</i> PNC Bank; Shameka N. Grier-)	
McCray, <i>Assistant Vice President</i> ; Erica, <i>PNC</i>)	
<i>Regional Loss Prevention Manager for Mrs.</i>)	
<i>Grier-McCray,</i>)	
)	
Defendants.)	
_____)	

The above-captioned case has been removed from the Richland County Court of Common Pleas. (ECF No. 1.) By order dated August 17, 2016, the court directed Plaintiff to obtain counsel within fifty days, and warned Plaintiff that failure to comply with the order would result in dismissal of the case. (ECF No. 12.) While 28 U.S.C. § 1654 allows individuals to “plead and conduct their own cases personally,” the statute does not extend that right to represent other parties. “Courts [] have interpreted this section to preclude a corporation from appearing through a lay representative.” Eagle Assocs. v. Bank of Montreal, 926 F.2d 1305, 1308 (2d Cir. 1991) (collecting cases); see also Ashbaugh v. Corp. of Bolivar, 481 F. App’x 840 (4th Cir. 2012) (citing Rowland v. Cal. Men’s Colony, 506 U.S. 194, 202 (1993)). By order dated October 13, 2016, the court granted Plaintiff an extension of time to obtain counsel by November 14, 2016. (ECF No. 16.) That deadline has now passed without further correspondence from Plaintiff, and the Defendant moves to dismiss the case pursuant to Federal Rule of Civil Procedure 41(b). (ECF No. 20.)

Plaintiff failed to obtain counsel, failed to comply with an order of the court, and failed to prosecute this case, and accordingly, the case should be dismissed. See Fed. R. Civ. P. 41(b); Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (stating that magistrate judge's prior explicit warning that a recommendation of dismissal would result from the plaintiff failing to obey his order was proper grounds for the district court to dismiss the suit when the plaintiff did not comply despite the warning), cert. denied sub nom, Ballard v. Volunteers of America, 493 U.S. 1084 (1990); Davis v. Williams, 588 F.2d 69, 70 (4th Cir. 1978) (finding the district court had authority under Rule 41(b) to dismiss the case on its own motion for failure to prosecute); see also Allied Colloids, Inc. v. Jadair, Inc., 139 F.3d 887 (4th Cir. 1998) (Table) (finding district court did not abuse its discretion in entering default judgment against defendant corporation that failed to comply with the court's order to obtain counsel).

RECOMMENDATION

Accordingly, the court recommends that this case be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(b), and the Defendant's motion to dismiss be granted. (ECF No. 20.)


Paige J. Gossett
UNITED STATES MAGISTRATE JUDGE

November 18, 2016
Columbia, South Carolina

The parties' attention is directed to the important notice on the next page.

Notice of Right to File Objections to Report and Recommendation

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); see Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk
United States District Court
901 Richland Street
Columbia, South Carolina 29201

Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984).